

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Paul Baron	Team: Team # 4	CCRB Case #: 200900838	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/14/2009 12:53 AM	Location of Incident: 18th Precint Stationhouse	Precinct: 18	18 Mo. SOL 7/14/2010	EO SOL 7/14/2010	
Date/Time CV Reported Thu, 01/15/2009 12:01 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/20/2009 2:12 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jordan Mazur	06497	935271	MTN PCT
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Oberst	06846	940527	MTN PCT
2. SGT Philip Russo	02783	900982	MTN PCT
3. POM Jamie Sykes	08942	926187	TRF/MTF

Officer(s)	Allegation	Investigator Recommendation
A.POM Jordan Mazur	Force: PO Jordan Mazur pushed § 87(2)(b) against a holding cell.	
B. Officers	Discourtesy: Officers spoke obscenely to § 87(2)(b)	
C. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force.	

Synopsis

On January 14, 2009, at 12:53 AM, § 87(2)(b) was arrested in front of 254 West 52nd Street in Manhattan. He was transported to the 18th Precinct stationhouse, by PO Jordan Mazur and PO § 87(2)(b) Oberst, both assigned to the 18th Precinct. § 87(2)(b) repeatedly cursed at the officers and threatened to give them AIDS. Inside of the arrest processing room, PO Mazur started to remove § 87(2)(b)'s handcuffs, when § 87(2)(b) attempted to spit on PO Mazur. PO Mazur pushed § 87(2)(b)'s head away from him, and the back of § 87(2)(b)'s head hit the metal grate of the room's holding cell (**Allegation A**). § 87(2)(b) alleged that inside of the arrest processing room and inside of the ambulance, officers called him a "bitch" and threatened to spank him (**Allegations B and C**). § 87(2)(b) was subsequently transferred to § 87(2)(b) Hospital before being processed as an arrest.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

On January 14, 2009, Capt. Kim Royster, assigned to the Patrol Borough Manhattan South, filed a complaint with IAB against NYPD officers on behalf of § 87(2)(b) after interviewing him at § 87(2)(b) Hospital (encl.6a-c). § 87(2)(b) is a § 87(2)(b) old white male, with brown hair and brown eyes, who is 5'7" and weighs 160 pounds.

On January 14, 2009, at 4:47 AM, § 87(2)(b) was interviewed at the § 87(2)(b) Hospital by Sgt. Tetonic of the Internal Affairs Bureau (enc. 7a), who responded to the hospital after Capt. Royster obtained the initial details of the complaint from § 87(2)(b). § 87(2)(b) was belligerent during the interview, telling Sgt. Tetonic to get the "fuck" away from him and to "shut the fuck up." § 87(2)(b) stated he did not drink any alcohol that night, because the bar only served "soda pop." Two officers arrived at his location to eject him from a bar. No one at the bar had asked him to leave. Two officers entered the bar and dragged him outside. There was no struggle between him and the officers. As § 87(2)(b) went outside, he ran his mouth at the officers. They approached him a second time and PO1 punched him in the face a few times and knocked him on the sidewalk. The officers did not say anything to § 87(2)(b) before he was punched. PO1 was a white male, about 6' tall, in his thirties, who weighed 210 pounds. § 87(2)(b) did not get a good look at PO2. Both officers were in uniform. § 87(2)(b) stated that he was hit because the officers did not like his mouth. § 87(2)(b) was not arguing with the officers. He was punched three to four times. He fell from the punches onto the back of his head and needed to get stitches.

On January 14, 2009, at 11:07 AM, § 87(2)(b) was interviewed at the 18th Precinct Stationhouse by Sgt. Villafane, and photos were taken of the stationhouse and of § 87(2)(b)'s injuries (enc. 7b-c). On March 26, 2009, § 87(2)(b) was interviewed at § 87(2)(b) Hospital in Manhattan by the CCRB (enc. 7d-s). These statements have been combined below with any inconsistencies noted.

On the night of January 13, 2009, § 87(2)(b) went to the bar Russian Samovar, on 256 West 52nd Street, in Manhattan. § 87(2)(b) had at least 10 drinks at the bar. § 87(2)(b) had been in the bar between two to three hours when he accidentally knocked over a shot glass while he was "whooping and hollering." He did not throw any bottles. § 87(2)(b) admitted he was very drunk and was not 100% sure what he said inside the bar. A bouncer then went up to § 87(2)(b) and told him to leave. § 87(2)(b) told the bouncer, "Go call the cops, punk." Two officers arrived approximately ten minutes later. § 87(2)(b) could remember his arresting officer, PO Mazur. PO Mazur was about 6', with fair, sandy hair, fair skin and a mole. PO1, ID'd as PO Oberst through the subsequent investigation, was a male officer. PO Mazur touched § 87(2)(b)'s arm to get his attention and said "come outside, we need to chat for a minute." The officers walked outside and § 87(2)(b) followed them.

Outside, § 87(2)(b) spoke with PO Mazur while PO Oberst stood nearby. PO Mazur told § 87(2)(b) to "go home and sleep it off." § 87(2)(b) admitted to being a "smart ass," and cursed at the officers as he was

walking away. PO Mazur told § 87(2)(b) he could leave if he shut his mouth, and that it was his last chance. § 87(2)(b) continued to “run his mouth.” The officers grabbed § 87(2)(b) and put him in the patrol car, and brought him to the stationhouse. He was rear handcuffed before he was placed in the car. No force was used against him outside of the bar. § 87(2)(b) stated that he had no injuries at that point. He was shown his arrest photo, which showed an abrasion above his right eye. § 87(2)(b) did not recall the injury, but thought it may have been caused from falling down drunk in the street after he had left the bar.

§ 87(2)(b) was brought directly to the 18th Precinct Stationhouse, where PO2 took his fingerprints and placed him in a cell. § 87(2)(b) was the only individual in his cell. Officers were walking by and two officers stopped in front of the cell and started taunting § 87(2)(b). § 87(2)(b) had not seen these officers prior that night. PO3 was 6’4”, light skinned, possibly Hispanic, with dark hair and dark eyes and he was in uniform. § 87(2)(b) could not recall what PO4 looked like. PO3 taunted § 87(2)(b) while PO4 stood behind him and laughed. PO4 never spoke to § 87(2)(b). PO3 stated “you’re a little bitch, you’re a little punk,” “watch your mouth,” and “I’m going to come in there and spank you.” PO3 also might have said the word “fuck,” but he did not recall. He did not make these allegations in his other statements. In his interview at the stationhouse, § 87(2)(b) stated that officers threatened to come in the cell and place him in leg shackles. § 87(2)(b) acknowledged cursing at the officers and he stated “come and get me tough guy, what are you going to do.”

PO3 entered § 87(2)(b)’s cell, grabbed him and threw him against the concrete ground. § 87(2)(b) had been in the cell for about an hour and had been interacting with the officer for about five minutes. The resulting impact with the ground caused a laceration to the back of § 87(2)(b)’s head, which later required 5 staples from § 87(2)(b) Hospital. The staples had been removed by the time of the interview. PO3 grabbed § 87(2)(b) by either his neck or shoulders. § 87(2)(b) had been standing still facing PO3, and started to turn away from him. § 87(2)(b) admitted that the incident was a little blurry to him. § 87(2)(b) fell back first to the ground and the top of the back of his scalp made first contact with the ground. § 87(2)(b)’s head did not hit any of the poles in the cell. § 87(2)(b) started to spit on the ground, but not at officers. PO Mazur was not present. § 87(2)(b) stated to PO3 “if you come closer, I’m going to spit in your eye and give you Hepatitis.” § 87(2)(b) was handcuffed by officers and was led out of the cell. In his interview at the stationhouse, § 87(2)(b) stated that four to five officers had entered the cell, slammed him to the ground, and punched him two to three times in the face. He then had a muzzle placed over his mouth and his hands were restrained.

§ 87(2)(b) was placed on a bench that was near a desk with computer equipment. § 87(2)(b) was told by an officer to “sit there and shut up.” After about ten minutes, § 87(2)(b) damaged a piece of computer equipment [§ 87(2)(b) refused to provide more details so as to not incriminate himself]. After the computer was damaged, § 87(2)(b) stopped cursing. He was escorted back to his cell by PO5 and was seated in the cell until EMTs from § 87(2)(b) arrived and brought him to the hospital. § 87(2)(b) was in body restraints. While he was in the ambulance, § 87(2)(b) could hear male voices taunting him that said “you got what you deserved,” “you’re a little punk,” and “you need to get spanked.” He believed this was said by officers. After a few hours, § 87(2)(b) was transported to the stationhouse by PO Mazur. He was later brought to central booking, where he was arraigned and released. § 87(2)(b) is waiting to be indicted for his charges.

§ 87(2)(b) told the CCRB that he was never punched or kicked at any time by officers. No other officers threatened or injured § 87(2)(b) besides PO3. § 87(2)(b) stated that his only complaint was against PO3. He did not care about the discourtesies spoken to him by PO3 and was not interested in pursuing it. He was only upset about the physical pain he suffered. He verified that the only physical injuries he received were from PO3 inside his cell, and the only discourtesies were said by PO3 and an unknown officer(s) while he was inside the ambulance.

Photo Array (enc. 71-r)

§ 87(2)(b) was shown a seven picture photo array during his CCRB interview. Photo 2 was PO Oberst and Photo 4 was PO Mazur, and the rest were filler photos. § 87(2)(b) stated he was about 40% certain that photo 2 was PO Mazur. § 87(2)(b) stated that photo 3 and photo 7 looked similar to PO3 because of their dark hair and eyes, similar sized ears, and receding hair line. However, he stated neither were PO3.

Results of Investigation

Civilian Witnesses

The IAB investigating officers interviewed several potential witnesses to the incident (enc. 8). The bouncer of Russian Samovar, § 87(2)(b), a bartender, § 87(2)(b) and a patron, § 87(2)(b) all observed § 87(2)(b) acting belligerent inside of the bar. They saw him throwing bottles inside the bar and harassing patrons. They observed § 87(2)(b) being told to leave the bar by officers and follow the officers outside, where he was arrested. None of the witnesses mentioned observing any physical interaction between the officers and § 87(2)(b). § 87(2)(b) made no FADO allegations that took place outside of the bar during his CCRB interview. As such, the CCRB determined it was unnecessary to contact witnesses from the bar.

The IAB investigators also tried to interview the two civilians listed on the prisoner holding pen roster. § 87(2)(b) was interviewed on the incident date, and stated he was in a cell with a Hispanic male. He was shown a photo of § 87(2)(b) and did not recognize him. He did not witness any of the allegations made by § 87(2)(b). The IAB investigator attempted to contact § 87(2)(b) but was unable to reach him. A name and DMV check were negative and the telephone number found for him was disconnected. The CCRB determined that there was no need to contact § 87(2)(b) to provide a statement as it would not affect the disposition of the allegations.

Officer Identification

PO Mazur was § 87(2)(b)'s arresting officer. His assigned partner for the incident date was PO § 87(2)(b) Oberst, assigned to the 18th Precinct. The roll call stated that Sgt. Philip Russo, assigned to the 18th Precinct, was the desk officer during the incident time. The prisoner holding pen roster indicated that PO Jamie Sykes, assigned to the Manhattan Traffic Task Force, had a prisoner at the 18th Precinct stationhouse during the incident time.

Officer Statements

Arrest Report/Complaint Report Statement- PO Jordan Mazur (enc. 10, 26)

"In front of 254 West 52nd Street at 12:53 AM on January 14, 2009, PO Mazur was notified by the doorman at the location that § 87(2)(b) was inside acting belligerently, throwing bottles at patrons and refusing to leave. Police forcibly removed § 87(2)(b) from the location. Upon being removed, § 87(2)(b) refused to leave location, causing a scene by cursing at police. Upon apprehending § 87(2)(b) he began to swing arms wildly and resist arrest. § 87(2)(b) was subdued on the street and removed to the stationhouse where he remained belligerent and was placed onto bench outside of holding cell. § 87(2)(b) was spitting at PO Mazur and stated "let me spit on you so I can give you AIDS." § 87(2)(b) then proceeded to kick computer equipment off of a table causing it to break. ESU responded and § 87(2)(b) was removed to § 87(2)(b) Hospital." The arrest report stated that no force was used. He was charged with disorderly conduct, resisting arrest, trespassing, and criminal mischief: property greater than \$250.

CCRB Interview and Criminal Court Complaint- PO Jordan Mazur (enc. 9, 10, 11)

On January 14, 2009, PO Jordan Mazur provided a statement as part of § 87(2)(b)'s criminal court complaint. On June 12, 2009, the CCRB interviewed PO Mazur. PO Mazur is a § 87(2)(b). On January 14, 2009, PO Mazur worked from 11:15 PM to 7:50 AM, and was assigned to Sector Patrol IJ with PO Oberst. He was dressed in uniform and assigned to a marked RMP, #1201. The statements have been combined below.

Memo Book Entries

0050- 50 @261 West 52nd Street

0053- 92C

0615- Relieved PO Smith/Seidita @ § 87(2)(b) w/perp - § 87(2)(b) in Re: § 87(2)(b)

On January 14, 2009, at approximately 12:50 AM, PO Mazur and PO Oberst were parked on West 52nd Street in their patrol car when they were approached by a bouncer, § 87(2)(b), from Russian Samovar. The bouncer told them that there was a patron inside who was acting disorderly and throwing

bottles. PO Mazur and PO Oberst entered the bar and the bouncer pointed out the patron, identified as § 87(2)(b). PO Mazur asked § 87(2)(b) to leave the bar and he walked outside, followed by the officers. Outside of the bar, there were approximately 10-15 civilians, none of whom appeared to know § 87(2)(b). PO Mazur told § 87(2)(b) to take a walk and to go home. § 87(2)(b) would not leave, and remained within 5-10 feet of the bar. § 87(2)(b) started to curse at the officers, who told him to keep moving away from the bar. PO Mazur could smell alcohol on § 87(2)(b)'s breath, but the officers felt that it would be safe to let him walk home by himself. PO Mazur gave § 87(2)(b) two minutes to leave, but he refused and continued cursing. PO Mazur decided to place § 87(2)(b) under arrest, assuming that he would have just returned to the bar if he was not arrested.

PO Mazur and PO Oberst approached § 87(2)(b) to tell him that he was under arrest. § 87(2)(b) started to walk away and PO Mazur told him they were bringing him to their car. PO Mazur put his hand on the back of § 87(2)(b) to direct him to the patrol car. § 87(2)(b) cursed at the officers and told them not to touch him. PO Mazur and PO Oberst each grabbed one of § 87(2)(b)'s arms to escort him to the patrol car. § 87(2)(b) started to flail his arms to prevent the officers from arresting him. PO Mazur and PO Oberst took § 87(2)(b) to the ground for their own safety. They got on top of him and rear handcuffed him. § 87(2)(b) continued to resist on the ground, wiggling his body and trying to get free. It took about twenty seconds to handcuff him. After § 87(2)(b) was handcuffed, they sat him up, and placed him in the back seat of the patrol car. PO Mazur had not seen any injuries on § 87(2)(b) prior to taking him to the ground, but once he sat him up, he noticed a scratch on § 87(2)(b)'s face, identified as the cut above his right eye in his arrest photo. PO Mazur assumed § 87(2)(b) was injured from falling face down on the street. § 87(2)(b) did not complain of any injuries.

Inside of the car, § 87(2)(b) cursed at the officers and told PO Mazur that he had AIDS, and that once he got PO Mazur alone in the stationhouse he was going to give him AIDS. § 87(2)(b) was brought to the 18th Precinct stationhouse, where he continued to be belligerent and cursed at the desk sergeant. The sergeant asked PO Mazur to bring § 87(2)(b) to the arrest processing room, while PO Oberst remained at the desk and filled out the paperwork. The arrest processing room is about ten feet away from the front desk. Inside of the arrest processing room were two white male officers from the traffic task force. The traffic officers had arrested one individual, who was inside of the holding cell in the room. PO Mazur sat § 87(2)(b) on the bench next to the cell, so he would be able to take off his shoelaces and belt once his handcuffs were removed. While § 87(2)(b) was on the bench, he kicked some computer equipment off of a desk. PO Mazur briefly left the room to obtain § 87(2)(b)'s pedigree information.

PO Mazur returned and stood § 87(2)(b) up and faced him towards the gate. PO Mazur removed one of § 87(2)(b)'s handcuffs. § 87(2)(b) turned his upper torso around towards PO Mazur and started to make a hocking sound, like he was going to spit at PO Mazur, which PO Mazur assumed was how § 87(2)(b) intended to try and give him AIDS. § 87(2)(b)'s face was about six inches from PO Mazur's face. PO Mazur took his right arm and pushed § 87(2)(b)'s head and neck away from him, causing the back of § 87(2)(b)'s head to hit the metal grate of the cell. § 87(2)(b)'s head had only been a few inches away from the cell before PO Mazur pushed it. After § 87(2)(b)'s head hit the grate, PO Mazur had all his weight against § 87(2)(b)'s chest, to prevent him from pushing PO Mazur off of him. § 87(2)(b)'s head was only pushed against the grate one time by PO Mazur. The other officers opened the cell and PO Mazur placed § 87(2)(b) inside of the cell. He removed § 87(2)(b)'s other handcuff and placed § 87(2)(b) on a bench inside of the cell. PO Mazur never threw § 87(2)(b) to the ground inside of the cell. No other officers had physical contact with § 87(2)(b).

After the altercation, a sergeant entered the room to ask what had happened. § 87(2)(b) never complained of any injuries, but after a few minutes, PO Mazur noticed blood dripping down on § 87(2)(b)'s shirt from the back of his head, so he called EMS. PO Mazur never heard any officers call § 87(2)(b) a "bitch" or a "punk," and never heard any officer use the word "fuck." He never said any of these phrases. No one ever threatened to spank or hit § 87(2)(b). Two EMS workers arrived at the stationhouse, and after they observed a cut on the back of § 87(2)(b)'s head, they transported him to the hospital. § 87(2)(b) was handcuffed again and was placed in leg shackles. PO Mazur went to the hospital with PO Oberst at around 6:00 AM to bring § 87(2)(b) back to the stationhouse.

CCRB Interview- PO § 87(2)(b) Oberst (enc. 12, 13)

On June 12, 2009, the CCRB interviewed PO § 87(2)(b) Oberst, who is assigned to the 18th Precinct. PO Oberst is a § 87(2)(b). On January 14, 2009, PO Oberst worked from 11:15 PM to 7:50 AM, and was assigned to Sector Patrol IJ with PO Mazur. He was dressed in uniform and assigned to a marked RMP, #1201.

Memo Book Entries

0053- 1 under @ corner of West 52nd and 8th Avenue

0055- 1 male to MTN

On January 14, 2009, at approximately 12:53 AM, PO Oberst and PO Mazur were parked on 52nd Street and 8th Avenue in their patrol car. A bouncer from the bar Russian Samovar approached the officers and told them that he had a patron inside of his bar that was throwing bottles, and he needed help removing. PO Oberst and PO Mazur entered the bar and the bouncer identified § 87(2)(b) as the patron. PO Oberst and PO Mazur went up § 87(2)(b) and told him that the bouncer wanted § 87(2)(b) escorted from the bar. PO Oberst could smell alcohol on § 87(2)(b)'s breath. PO Oberst and PO Mazur guided § 87(2)(b) out of the bar and he provided no resistance. Outside of the bar, PO Oberst and PO Mazur repeatedly told § 87(2)(b) to leave and go home. There was a crowd of about ten civilians outside of the bar. § 87(2)(b) repeatedly walked a few steps away, then turned around and cursed at the officers, calling them "fagots" and "assholes." After about three minutes of this, PO Oberst and PO Mazur decided to place § 87(2)(b) under arrest for disorderly conduct. PO Oberst and PO Mazur approached § 87(2)(b), grabbed his arms, and started to walk him towards the patrol car. § 87(2)(b) threw one of his hands up in the air to resist the officers, and they brought him down stomach first to the street. PO Mazur fell down to the ground with § 87(2)(b). The officers never struck § 87(2)(b) while affecting his arrest and never punched him in the face. PO Oberst got down on the ground and assisted in handcuffing § 87(2)(b). No other physical force was used once § 87(2)(b) was placed on the ground and it only took a few seconds to get him handcuffed.

The officers lifted § 87(2)(b) off the ground and placed him in their patrol car. A woman approached the car and § 87(2)(b) stated she was his girlfriend; the officers never obtained her name. § 87(2)(b) never complained of any injuries. On the way to the stationhouse, § 87(2)(b) stated he was going to spit on the officers and give them AIDS. PO Oberst and PO Mazur brought § 87(2)(b) to the front desk inside of the stationhouse. The desk officer was Sgt. Russo. PO Oberst searched § 87(2)(b) and obtained his pedigree information. Sgt. Russo told PO Mazur to bring § 87(2)(b) to the arrest processing room. The door to the arrest processing room was closed behind PO Mazur once he brought § 87(2)(b) inside. PO Oberst could not hear any of the verbal interaction that took place inside of the arrest processing room. After a few minutes, PO Oberst noticed everyone from the desk looking at the window to the arrest processing room. PO Oberst entered the room and observed § 87(2)(b) inside of the holding cell; he did not observe any signs of a struggle. He never heard any officer call § 87(2)(b) a "punk" or a "bitch," or threaten to "spank" him. PO Oberst never heard any officer say the word "fuck," but he may have said "what the fuck happened?" to PO Mazur after he entered the arrest processing room. PO Oberst never saw § 87(2)(b) on the ground inside of the arrest processing room and never observed any officer strike § 87(2)(b) or push him against the grate of the cell.

The officers called for an ambulance, because § 87(2)(b) was bleeding from the back of his head. § 87(2)(b) never complained of any injuries; PO Oberst did not think § 87(2)(b) understood what was going on. After the incident, PO Oberst and PO Mazur left the room, and PO Mazur explained to him that § 87(2)(b) had tried to spit on him and he pushed his head away into the cell grate. EMS workers arrived and transported § 87(2)(b) to the hospital. PO Oberst placed ankle restraints on § 87(2)(b). While § 87(2)(b) was brought to the ambulance, PO Oberst did not hear anyone curse at § 87(2)(b) or threaten to hit him. PO Oberst and PO Mazur went to the hospital at around 6:00 AM to retrieve § 87(2)(b). § 87(2)(b) stated he remembered what had happened earlier in the night.

CCRB Statement: PO Jamie Sykes (enc. 14, 15)

On July 6, 2009, the CCRB interviewed PO Jamie Sykes, who is assigned to the Manhattan Traffic Task Force. PO Sykes is a § 87(2)(b).

§ 87(2)(b). On January 14, 2009, PO Sykes worked from 9:45 PM to 6:20 AM, and was assigned to arrest processing at a checkpoint on Broadway between 47th and 48th Street. He was dressed in uniform.

Relevant Memo Book Entries

0036- 1 under-§ 87(2)(b) 511/ F/O 1585 Broadway

0039- 84- MTN

0148- 2 MOS; 1 MPERP from MTN to MCB

On January 14, 2009, at approximately 12:40 AM, PO Sykes brought § 87(2)(b) to the Manhattan North Precinct, for arrest processing. PO Sykes was inside of the arrest processing room, and § 87(2)(b) was inside of the holding cell, when § 87(2)(b) was brought inside of the stationhouse. PO Sykes was with another officer from the Traffic Task Force. The door to the room was closed, but PO Sykes could hear § 87(2)(b) screaming at the front desk through the glass partition. § 87(2)(b) was brought into the arrest processing room by PO Mazur. § 87(2)(b) was handcuffed and he was shuffling towards the cell, not being completely cooperative. § 87(2)(b) was brought to the holding cell to have his handcuffs removed so he could be placed in the cell. § 87(2)(b) had glassy eyes, slurred speech, and smelled heavily of alcohol.

§ 87(2)(b) called § 87(2)(b) a “nigger” and said he was going to kick § 87(2)(b) ass. As PO Mazur tried to un-cuff § 87(2)(b) he made a comment to PO Mazur about AIDS and spitting. PO Sykes heard § 87(2)(b) start to spit on PO Mazur. PO Mazur immediately pushed § 87(2)(b) against the cell that he had been standing next to. PO Mazur placed his left hand against § 87(2)(b)'s mouth, directing it away from his face; this action pushed § 87(2)(b)'s head backwards against the cell. § 87(2)(b) was only pushed one time by PO Mazur. § 87(2)(b) was sat down and handcuffed to the bench outside of the holding cell. PO Sykes did not remember seeing any injuries on § 87(2)(b). Eventually a sergeant entered the arrest processing room; PO Sykes did not recall seeing any other officers.

PO Sykes never heard any officers use the word “fuck” inside of the arrest processing room. He never heard any officer call § 87(2)(b) a “bitch” or a “punk,” and he never heard anyone threaten to spank him. He never made any of these comments to § 87(2)(b). He never heard any officer curse. PO Sykes did not observe any other inmates being brought into the arrest processing room. PO Sykes never observed § 87(2)(b) on the ground. While § 87(2)(b) was handcuffed to the bench, he kicked out his legs and damaged some computer property. After he did so, the desk sergeant stated that they would be adding another charge against § 87(2)(b). PO Sykes left the stationhouse; he never heard § 87(2)(b) complain of any injuries and did not know if an ambulance came for § 87(2)(b).

CCRB Statement: Sgt. Philip Russo (enc. 16, 17)

On June 30, 2009, the CCRB interviewed Sgt. Philip Russo, who was assigned to the 18th Precinct on the incident date. Sgt. Russo is § 87(2)(b). On January 14, 2009, Sgt. Russo worked from 11:05 PM to 8:02 AM, and was the 18th Precinct desk officer. He was dressed in uniform. He had no relevant memo book entries.

On January 14, 2009, Sgt. Russo worked as the desk officer in the 18th Precinct. Around 1:00 AM, § 87(2)(b) was brought into the stationhouse, but Sgt. Russo did not remember the nature of his interaction with him, or what § 87(2)(b)'s demeanor was like. Sgt. Russo recalled that § 87(2)(b) later damaged computer property inside of the arrest processing room, and that after doing so § 87(2)(b) was very irate. Sgt. Russo could not remember seeing or hearing what took place inside of the arrest processing room. He did not see any physical interaction between PO Mazur or PO Oberst and § 87(2)(b). Sgt. Russo never cursed at § 87(2)(b) never threatened to spank him, and never called him a punk or a bitch. He never said “fuck” and did not hear any other officer use the word. Sgt. Russo only recalled that PO Mazur told him that § 87(2)(b) took a swing at him. Sgt. Russo did not remember observing any injuries on § 87(2)(b) but remembered that he was taken to the hospital after the altercation in the arrest processing room.

Medical Records- (enc. 19)

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) at 2:21 AM. § 87(2)(b) was a § 87(2)(b) old EDP, found cuffed inside of the jail cell. PD stated that § 87(2)(b) was causing a disturbance in a bar and started fighting with PD. § 87(2)(b) also destroyed property in the precinct. § 87(2)(b) attempted

to spit on everyone who came near him. § 87(2)(b) refused vitals. He sustained multiple abrasions on his face and back of head while being cuffed by PD. § 87(2)(b) was combative and uncooperative while being treated. § 87(2)(b) complained of a wound to the back of his head and pain above his right eyes and below his left eyes. He stated he sustained punches to his head, but did not fall or hit his head on the ground. He denied having neck or back pain. § 87(2)(b) received 5 staples to close the wound to the back of his head after the wound was washed. He had minimal bleeding. § 87(2)(b) was released from the hospital at 8:35 AM; he refused to sign the documents provided to him.

Communications Records- SPRINT (enc. 20)

The sprints indicated that PO Mazur and PO Oberst made contact with § 87(2)(b) at 12:48 AM on January 14, 2009, and placed him under arrest at 12:53 AM. At 1:48 AM, they placed a call from the stationhouse stating they needed an EDP bagged, and at 1:59 AM, EMS was on scene at the stationhouse.

NYPD Documents

Medical Treatment of Prisoner Form (enc. 18)

On January 14, 2009 at 2:10 AM, § 87(2)(b) was transported to § 87(2)(b) Hospital by ESU, escorted by PO Seidita. He sustained a laceration to his face and head while resisting arrest. He was handcuffed and shackled for transport.

18th Precinct Roll Call (enc. 21)

The roll call stated that for Tour 1 on January 14, 2009, Sgt. Russo was the desk officer and PO Mazur and PO Oberst were partnered patrolling sector IJ.

18th Precinct Command Log (enc. 22)

The command log stated that at 12:50 AM, PO Sykes brought in defendant § 87(2)(b) as an arrest. At 1:00 AM, PO Mazur brought in § 87(2)(b) as an arrest. He was intoxicated and had a cut to his head. § 87(2)(b) Williams was brought in as an arrest at 1:20 AM.

18th Precinct Prisoner Holding Pen Roster (enc. 23)

§ 87(2)(b) was held in a cell from 12:50 AM to 1:50 AM on January 14, 2009. § 87(2)(b) was held from 1:35 AM through 4:10 AM. § 87(2)(b) was held in a cell from 1:35 AM through 2:05 AM; however the roster also stated he was visited by a supervisor at 1:30 AM.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) s CCRB History (enc. 4)

§ 87(2)(b) has not filed any previous CCRB complaints.

Subject Officer's CCRB History (enc. 3)

PO Jordan Mazur has had no other CCRB allegations in his five year tenure at the NYPD.

Conclusions and Recommendations

Pleading of Allegations

PO Mazur acknowledged pushing § 87(2)(b)'s head against the metal grate of the cell, causing the injuries § 87(2)(b) suffered to the back of his head. The allegation of physical force is therefore being pleaded against PO Mazur. As the CCRB has come to a determination that § 87(2)(b)'s allegations of discourtesy and threat of physical force did not occur, they are being pleaded against "An officer."

Undisputed Facts

It is undisputed that § 87(2)(b) was highly intoxicated and cursed at the officers after they removed him from the bar, leading to his arrest. It is undisputed that inside of the 18th Precinct stationhouse, an officer used physical force against § 87(2)(b) causing a cut to the back of his head. It is undisputed that § 87(2)(b) threatened to spit on an officer and give them a disease.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

Allegations not pleaded.

PO Mazur and PO Oberst acknowledged bringing § 87(2)(b) to the ground to handcuff him, which resulted in an abrasion on § 87(2)(b)'s face. However, § 87(2)(b) did not make this allegation in his CCRB interview. § 87(2)(b) alleged he was punched in his IAB interviews, but did not make this allegation in his CCRB interview, even when asked about it directly. As such, these allegations are not being pleaded.

A) Force: Hit against inanimate object (holding cell) - PO Jordan Mazur pushed § 87(2)(b) against a holding cell.

The force used by PO Mazur was a reaction to a threat posed by § 87(2)(b). PO Mazur had no intention of injuring § 87(2)(b) or pushing his head against the holding cell. This contact was made as a result of § 87(2)(b)

§ 87(2)(b) having been standing a few inches from the cell. § 87(2)(b) threatened PO Mazur, and PO Mazur pushed § 87(2)(b)'s face away to avoid the threat of being spit on and possibly contracting a disease. PO § 87(2)(g)

B) Discourtesy: Word- Officers spoke obscenely to § 87(2)(b)

C) Abuse of Authority: Threat of force- Officers threatened § 87(2)(b) with the use of force.

There was no evidence to indicate that officers ever cursed at or insulted § 87(2)(b) or threatened him with force. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: